

E-filed on June 14, 2006

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[Proposed] Attorneys for the Official Committee of Equity  
 Security Holders of USA Capital Diversified Trust Deed Fund,  
 LLC

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:  
 USA COMMERCIAL MORTGAGE COMPANY,  
 Debtor.

In re:  
 USA CAPITAL REALTY ADVISORS, LLC,  
 Debtor.

In re:  
 USA CAPITAL DIVERSIFIED TRUST DEED  
 FUND, LLC,  
 Debtor.

In re:  
 USA CAPITAL FIRST TRUST DEED FUND, LLC,  
 Debtor.

In re:  
 USA SECURITIES, LLC,  
 Debtor.

Affects:

- ☐ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☒ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

Case No. BK-S-06-10725 LBR  
 Case No. BK-S-06-10726 LBR  
 Case No. BK-S-06-10727 LBR  
 Case No. BK-S-06-10728 LBR  
 Case No. BK-S-06-10729 LBR

Chapter 11

Jointly Administered Under  
 Case No. BK-S-06-10725-LBR

**OST REQUESTED**

Date: June 21, 2006  
 Time: 9:30 a.m.  
 Place: Courtroom #1

**EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEAR THE  
APPLICATION PURSUANT TO  
FED. R. BANKR. P. 2014(a) FOR ORDER UNDER  
SECTION 1103 OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT  
AND RETENTION OF FTI CONSULTING, INC. AS  
FINANCIAL ADVISORS TO THE OFFICIAL COMMITTEE OF EQUITY SECURITY  
HOLDERS OF USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC  
NUNC PRO TUNC AS OF JUNE 9, 2006**

**TO THE HONORABLE LINDA B. RIEGLE, UNITED STATES BANKRUPTCY JUDGE:**

The Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC (the "USA Diversified Committee"), by and through its bankruptcy counsel, Orrick, Herrington & Sutcliffe LLP ("Orrick") and Beckley Singleton, Chtd. ("Beckley"), has filed its Application Pursuant to Fed. R. Bankr. P. 2014(a) for Order Under Section 1103 of the Bankruptcy Code Authorizing the Employment and Section 1103 of the Bankruptcy Code Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisors to the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC *Nunc Pro Tunc* as of June 9, 2006 (the "FTI Application"). This ex parte application is made and based upon Fed. R. Bankr. P. 9006, the following memorandum of points and authorities and Declaration of Michael A. Tucker (the "Tucker Declaration"), the Attorney Information Sheet filed contemporaneously herewith, and the papers and pleading on file herein, judicial notice of which is respectfully requested.

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1 WHEREFORE, the USA Diversified Committee respectfully requests that this Court  
 2 grant this ex parte application and issue an order shortening time to hear the FTI Application at  
 3 the Omnibus Hearing on June 21, 2006, and for such other and further relief at the Court deems  
 4 just and proper.

5 Respectfully submitted this 14<sup>th</sup> day of June 2006.

6 BECKLEY SINGLETON, CHTD.

7 /s/ Anne M. Loraditch

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16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 Bankruptcy Code section 105 allows this Court to issue such orders as are necessary to  
 18 carry out the provisions of this title. 11 U.S.C. § 105. Rule 9006(c)(1) of the Federal Rules of  
 19 Bankruptcy Procedure ("Bankruptcy Rules") generally permits a bankruptcy court, for cause  
 20 shown and in its discretion, to reduce the period during which any notice is given in accordance  
 21 with the Bankruptcy Rules. Bankruptcy Rule 9006(c)(1) provides as follows:

22 Except as provided in paragraph (2) of this subdivision, when an act is  
 23 required or allowed to be done at or within a specified time by these rules  
 24 or by a notice given thereunder or by order of court, the court for cause  
 shown may in its discretion with or without motion or notice order the  
 period reduced.

25 11 U.S.C. § 105. Local Rule 9006 provides further authority for shortening the time for a  
 26 hearing. According to Local Rule 9006(b), every motion for an order shortening time must be  
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1 accompanied by an affidavit stating the reasons for an expedited hearing. As set forth in the  
2 Tucker Declaration, there is a compelling reason for an expedited hearing on the FTI Application.

3 Local Rule 9006 requires the moving party to submit an Attorney Information Sheet  
4 indicating whether opposing counsel was provided with notice, whether opposing counsel  
5 consented to the hearing on an order shortening time, the date counsel was provided with notice  
6 and how notice was provided or attempted to be provided. An Attorney Information Sheet is  
7 being filed contemporaneously with this ex parte application.

8 For the reasons set forth in the Tucker Declaration below, FTI asks that the Court extend  
9 the deadline for filing an opposition to the FTI Application, if necessary, to the close of business  
10 on June 16, 2006, (i.e. two days after the FTI Application is filed) in order to afford all parties in  
11 interest sufficient opportunity to review and formulate a position on the FTI Application.

12 With an extended deadline afforded to parties in interest for filing oppositions to the FTI  
13 Application, the USA Diversified Committee also asks for the opportunity to file a reply no later  
14 than the close of business on June 20, 2006, two business days after such oppositions as may be  
15 filed and one day prior to the hearing on June 21st.

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**DECLARATION OF MICHAEL A. TUCKER**

I, Michael A. Tucker, hereby declare as follows:

1. I am over eighteen years of age and have personal knowledge of the facts set forth herein, and if called as a witness, would testify competently with respect thereto from my own personal knowledge except as otherwise stated.

2. I am a Senior Managing Director with FTI Consulting, Inc. (together with its wholly owned subsidiaries, agents, independent contractors and employees, "FTI"), a financial advisory services firm with numerous offices throughout the country. This declaration is submitted in support of the USA Diversified Committee's<sup>1</sup> ex parte application to shorten time for hearing the FTI Application.

3. On April 13, 2006 (the "Petition Date"), USA Capital Diversified Trust Deed Fund, LLC ("USA Diversified"), USA Commercial Mortgage Company ("USA Mortgage"), USA Securities, LLC ("USA Securities"), USA Capital Realty Advisors, LLC ("USA Realty") and USA Capital First Trust Deed Fund, LLC ("USA First" and, collectively with USA Mortgage, USA Securities, USA Realty and USA Diversified, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code ("Bankruptcy Code").

4. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

5. On May 10, 2006, the Office of the United States Trustee (the "US Trustee") appointed the following four committees in the Debtors' Cases:

(a) The Official Committee of Holders of Executory Contract Rights Through USA Mortgage (the "Direct Lenders' Committee");

(b) The Official Unsecured Creditors Committee for USA Mortgage;

(c) The Official Committee of Equity Security Holders of USA First (the "USA First Committee"); and

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<sup>1</sup> Terms not otherwise defined herein shall have the same meaning ascribed to them in the FTI Application.

1           6.       The Direct Lenders' Committee initially sought to retain the law firm of Stutman,  
2       Treister and Glatt ("ST&G") collectively with one or both of the fund committees. However, on  
3       May 23, 2006, the Direct Lenders' Committee determined that joint representation was not in its  
4       best interest and retained Gordon & Silver, Ltd. late in the evening on May 23, 2006. This Court  
5       has since approved such employment.

6           7.       Thereafter, the USA First Committee retained ST&G, leaving the USA Diversified  
7       Committee without counsel. This Court has since approved the employment of ST&G as counsel  
8       for the USA First Committee.

9           8.       The Official Committee of Equity Security Holders of USA Diversified (the  
10       "Committee," together with the Direct Lenders' Committee, the Official Unsecured Creditors  
11       Committee for USA Mortgage, and the USA First Committee, the "Investor Committees").

12          9.       On June 1, 2006, the Committee met telephonically and decided to engage Orrick,  
13       Herrington & Sutcliffe LLP ("Orrick") as its bankruptcy counsel. The Committee's application  
14       to employ Orrick as bankruptcy counsel is currently pending before the Court.

15          10.       On June 9, 2006, the Committee engaged Beckley Singleton, Chtd. ("Beckley") as  
16       its Special (Nevada) Counsel. The Committee's application to employ Beckley as its Special  
17       (Nevada) Counsel is currently pending before the Court.

18          11.       Also on June 9, 2006, the Committee met telephonically and decided to engage  
19       FTI as its financial advisors.

20          12.       FTI only very recently entered this case, and the Committee filed the FTI  
21       Application at the earliest possible opportunity. I believe there is good cause for the Court to  
22       extend the deadline for filing an opposition to the FTI Application, if necessary, to the close of  
23       business on June 16, 2006, two business days after the filing of the FTI Application and five days  
24       before the Omnibus Hearings set for June 21st, in order to afford all parties in interest sufficient  
25       opportunity to review and formulate a position on the FTI Application. The Debtors and other  
26       Investor Committees specifically requested that accommodation, and I believe that allowing two  
27       days after the FTI Application is filed for responses is reasonable and appropriate.  
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13. With an extended deadline afforded to parties in interest for filing oppositions to the FTI Application, I believe it to be equitable for the Court to permit the USA Diversified Committee the opportunity to file a reply no later than the close of business on June 20, 2006, two business days after such oppositions as may be filed and one day prior to the hearing on June 21st.

14. The Court's indulgence in this instance is warranted because the USA Diversified Committee moved as promptly as possible to retain FTI as its financial advisors once it had secured bankruptcy counsel (Orrick and Beckley) when it was left without counsel due to the objections filed by the Direct Lenders' Committee and the US Trustee to ST&G's employment.

15. Moreover, given the nature of the Debtors' Cases, the Committee's interests are best served by having Judge Riegler rather than a visiting judge decide any issues involving the FTI Application. FTI should not be forced to wait until the next Omnibus Hearing date on July 25, 2006, to find out if its retention as the Committee's financial advisors is approved since by then FTI will have spent hundreds, if not thousands, of hours on these matters.

16. The Office of the United States Trustee, counsel for the Debtors and counsel for the three other Investor Committees have agreed that the FTI Application may be heard on shortened time and the Debtors and committees have requested that they have two days after the FTI Application is filed to object or otherwise respond.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed at Phoenix, Arizona, this 14th day of June, 2006.

/s/ Michael A. Tucker

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Michael A. Tucker